REMARKS

Applicant has studied the Advisory Action of July 7, 2003 as well as the Final Office Action of May 7, 2003 and offers the following remarks.

Terminal Disclaimer

Initially, Applicant resubmits the terminal disclaimer with the word "patent" pluralized as requested. As Applicant has already paid the terminal disclaimer fee, no additional fee for this resubmission should be required.

Summary of the Invention

The present invention provides a kiosk that multiple users may use concurrently and independently. The kiosk may have multiple user stations, each of which may have one or more user inputs and a display output. The kiosk has a single controller that controls each of the user stations. Specifically, the display controller may run a distinct browser application at each of the user stations, such that the users may operate the browser application at a first user station independently of the browser application at the second user station. The user inputs commands to the given browser application through the inputs and receives information through the display output. The display controller, in addition to running the browser applications, has communication electronics that, in response to user generated commands in the browser applications, communicates with a remote server to retrieve information for display on the appropriate display. The communication from the display controller to the server is done through TCP/IP and requires appropriate IP addresses for the participating parties.

Installations that use these kiosks are likely to install a plurality of kiosks. To reduce the number of needed IP addresses, the present invention provides a single IP address for each display controller. So that the display controller can distinguish between different browser applications, the browser applications are assigned a unique port associated with the IP address. The use of the ports to distinguish between the browser applications effectively halves the hardware costs in that it eliminates the need for duplicative cabling from the server to the browser application; it eliminates the need for a hub to route things between the browser applications; and only a single motherboard is required with a single CPU.

§§ 102 and 103

All of the pending claims (1, 4-9, 11-21, and 28-33) have been rejected under 35 U.S.C. § 103 as being unpatentable over Finley et al. (hereinafter Finley). Further, independent claims 1, 14, and 20 have been rejected under 35 U.S.C. § 102(a) as being unpatentable over Siefert.

Applicant has either already amended the claims or herein amends the claims to recite that the display controller has one IP address and each of the browser applications has a unique port associated with the IP address. As explained above, this is important in that it reduces the number if IP addresses that are required and reduces the expense of the hardware.

Siefert

While Patent Office has maintained this rejection, there does not appear to be much conviction in the position. To anticipate a claim under 35 U.S.C. § 102, the Patent Office must show where each and every claim element is taught in the reference. Further, the elements of the reference must be arranged as claimed. MPEP § 2131. As Applicant has explained in its previous response filed June 9, 2003, Siefert does not disclose the ports (claims 1 and 14) or the printer (claim 20). The amendment to claim 20 to include the port, further removes claim 20 from an anticipation rejection. The Patent Office has not, to date, addressed this argument, nor attempted to show where in the reference these claim elements may be located. Applicant requests withdrawal of the § 102 rejection at this time.

Finley

The basis of the disagreement between Applicant and the Patent Office is the scope of the disclosure of Finley and what is suggested by the language within Finley. In essence, the Patent Office maintains that because Finley et al. discloses generally that the SM 300 and the DC 310 use TCP/IP (according to IEEE 802.3) to communicate (see Finley col. 6, lines 50-62) that there is a teaching or suggestion that the display controller has a single IP address and that the browser applications are assigned unique ports associated with the IP address. Applicant respectfully disagrees. This disagreement comes, in part, from Applicant's knowledge of the deployed Radiant kiosks (Radiant owns the Finley patent), and in part from Applicant's understanding of the relevant patent laws.

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First, as evidenced by the attached declaration of Rodger Williams, Radiant uses a system based on Windows CE, which does not contemplate a multi-user environment. Thus, each display has its own IP address and its own hardware to control the display. If Finley taught or suggested using a single IP address per fuel dispenser and using unique port addresses associated with the IP address to distinguish between the browser applications, then it stands to reason that the deployed systems would implement such a solution. However, the deployed systems do not implement such a solution. Therefore, not only was this solution not disclosed in Finley, but also it was not obvious to someone with particularized knowledge in the industry. If the solution was not obvious to one with particularized knowledge in the industry, the solution cannot be obvious to one of ordinary skill in the industry. To this extent, the claimed invention is non-obvious over Finley.

Second, the relevant patent laws, as explained in the case law and the MPEP make it clear that there must be some suggestion or motivation to modify a reference when making an obviousness rejection. MPEP § 2143.01. Merely because a modification is possible does not make it obvious. *Id.* Further, when the Patent Office is modifying a single reference, the Patent Office must make particularized findings as to why the reference is being modified. *In re Dembiczak*, 175 F.3d 994, 999 (Fed. Cir. 1999). Applicant has scoured the Finley reference and finds no teaching or suggestion therein that makes it obvious to use the ports associated with the IP addresses to distinguish between browser applications. In response to Applicant's arguments along these lines, the Patent Office provided a copy of a supplement to the 802.3 standard and directed Applicant's attention to Figure 3.1 with a note that "this standard lists using destination addresses and source addresses." The Patent Office is correct that Figure 3.1 does disclose a destination address and a source address, but this is not an explicit disclosure that the browser applications are distinguished by unique port addresses associated with the IP address, nor is this a suggestion to use a unique port address associated with the IP address to distinguish between browser applications. Since the references on face do not teach or suggest using the unique port addresses associated with the IP address to distinguish between browser applications, the Patent Office, absent a particularized finding as required by *Dembiczak*, has not shown how the claims are obvious. The Patent Office has, to date, not made the particularized findings required by Demb to modify the reference, and thus, the Patent Office has not shown how the claims are obvious over the reference.

Similar arguments exist with respect to claim 13's wireless limitation and claim 20's printer limitation. Specifically, the Patent Office has not shown, as required by the MPEP and the relevant case law, where in the reference these elements may be located, nor has the Patent Office made any particularized findings as required by *Dembiczak* to modify the reference to arrive at the claimed invention. Merely because a modification is possible does not make the modification obvious to one of ordinary skill in the art. MPEP 2143.01. The Patent Office has, to date, merely speculated that these modifications are obvious, and this is insufficient to establish obviousness.
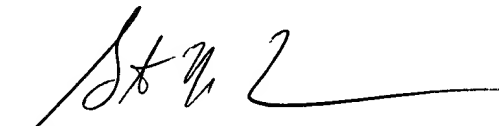
As further evidence that the modification is not obvious, the declaration of Rodger Williams, referenced above, indicates that Radiant has failed to develop a multi-user environment and cannot do so based on their operating system. The failure of others to develop an invention is some evidence of non-obviousness. MPEP § 716.04.

Applicant requests reconsideration of the rejection in light of the arguments and evidence submitted herewith. Specifically, just because the Finley reference discloses a browser enabled kiosk does not equate to a suggestion that the claim elements are obvious. Applicant earnestly solicits claim allowance at the Examiner's earliest convenience.

Respectfully submitted,

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